REPORTABLE

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CIVIL REVISION PETITION NO. 17 OF 2007

Date of Decision : 04-12-2007

Ravinder Kumar Sharma ..... Petitioner
through Mr.R.K.Srivastava, Advocate

Versus

O.P.Sharma & Anr. .....Respondents
Through Mr. Surender K. Gupta, Advocate

CORAM:
HON'BLE MISS JUSTICE REKHA SHARMA

1. Whether the reporters of local papers may be allowed to see the judgment ? Yes.

2. To be referred to the reporter or not ? Yes.

3. Whether the judgment should be reported in the `Digest?' Yes.

REKHA SHARMA, J.

The petitioner is a tenant and has filed this Revision Petition under Section 25B(8) of the Delhi Rent Control Act, 1958 (hereinafter referred to as the "Rent Act") against the order dated November 30,2006 passed by the learned Additional Rent Controller, Delhi directing his eviction from the suit premises bearing flat No.1104, LIG, Pocket C, Loni (East) Shahdara, Delhi – 95 on the ground of bonafide requirement of respondent No.1.

The factual matrix of the case giving rise to the Revision petition is as follows: -

Respondent No.1 is the owner and landlord of the suit property which was let out to the petitioner by his brother (respondent No.2) at

Rs.1000/- per month vide Rent Agreement dated July, 24 1998. At the time the suit premises were let out, respondent No.1 was employed in private job at Ludhiana. About 4-5 years prior to the filing of the eviction petition he lost his job and could not find an alternate job in Ludhiana. He shifted to Delhi where his brother and other relatives are settled. He managed to get a job as a Paint chemist in a private company in Delhi on regular monthly salary and is working as such since April 2006. However, he has not been able to find suitable accommodation at Delhi for himself and his family which comprises of his wife, three grown up daughters and one son. Hence, his family is still living in Ludhiana whereas he is residing with his brother.

In these circumstances he filed the eviction petition against the petitioner on the ground that he requires the premises in question for himself and his family's bonafide need and that he has no other suitable accomodation except the suit premises.

The petitioner in response to the service of notice of the eviction petition filed application for leave to defend and stated therein that the petition was liable to be dismissed as respondent No.1 had not stated as to under whose employment he worked in Ludhiana and also on what charges his services at Ludhiana were terminated. He also stated that his hardship was greater than that of respondent No.1 as he has two children, namely, Sahurabh Sharma aged about 21 years and Benica Sharma aged about 14 years who were studying in B.Com Final and 10th class respectively. Except for these two grounds the petitioner raised no other plea in the application for leave to defend.

In order to succeed in a claim for eviction on the ground of

bonafide requirement under Section 14(1)(e) read with section 25(B) of the Rent Act, a landlord has to plead and prove the following ingredients :

i) that he is the owner and landlord of the suit property;

ii) that the suit premises were let out for residential purposes;

iii) that the landlord (petitioner) has no other reasonably suitable residential accommodation;

iv) that the premises are required bonafide by the petitioner for occupation as residence for himself and member of his family dependent upon him.

In the present case the petitioner has not disputed the first three ingredients mentioned above. He has not denied that respondent No.1 is the owner and landlord of the suit property. He has also not disputed that the premises were let out to him for residential purposes. He has further not disputed that respondent No.1 does not possess any other reasonably suitable residential accommodation for himself and his family members except the suit premises. As already noticed above all that he stated in his application for leave to defend is that respondent No.1 has not given the particulars of his employment at Ludhiana and has also not disclosed why his services were terminated. He has also claimed his hardship in shifting from the accommodation under his occupation to be greater than that of respondent No.1.

The question is whether the said pleas raised by the petitioner constitute sufficient and cogent ground to grant him leave to defend to contest the eviction petition. The answer without any hesitation is in

the negative.

The non-disclosure of particulars of employment at Ludhiana by respondent No.1 and the reason for termination of his employment cannot deprive him of his right to claim possession of his premises under occupation of the petitioner. It is sufficient if he has stated that he is no longer in the employment at Ludhiana and that he has shifted to Delhi where he has found another job. He cannot be denied the right to shift to his own accommodation alongwith his family members unless the tenant alleges that he is not working in Delhi or that he has other reasonably suitable accommodation where he can shift with his family. As noticed above no such plea has been raised. As regards the plea of comparative hardship raised by the petitioner this again is no ground to deny respondent No.1 his premises. In any case family of respondent No.1 comprises of his wife, marriageable daughters and one son which is less than the family of the petitioner.

In view of the above and having regard to the facts and circumstances of the case this Court does not find any merit in the present revision petition. The same is therefore, dismissed with no order as to cost. However, since the time of six months granted by the court below for vacating the suit premises has already expired during the pendency of the present revision proceedings, the petitioner is granted three months more time from today for vacating the suit premises.

REKHA SHARMA,J.

December 04, 2007
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